

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-CV-184-H(2)

CAROL DALENKO,)
)
Plaintiff,)
)
)
v.)
)
)
NEWS AND OBSERVER PUBLISHING)
COMPANY and H. HUGH STEVENS, JR.,)
)
Defendants.)

ORDER


This matter is before the court pursuant to 28 U.S.C. § 636 and Rule 72 of the Federal Rules of Civil Procedure. On September 22, 2010, the Clerk of this court denied plaintiff's motion for entry of default against defendants. (Order dated Sept. 22, 2010 [DE #35].) Plaintiff thereafter filed a document entitled "Motion to Amend Order on Motion for Entry of Default, Order on Motion for Extension of Time, Order on Motion for Extension of Time to File, Order on Motion for Default Judgment" wherein plaintiff sought review of the clerk's order denying entry of default. On October 26, 2010, United States Magistrate Judge David W. Daniel reviewed the matter and denied plaintiff's request for entry of default. (Order dated Oct. 26, 2010 [DE #41].) Plaintiff now appeals Judge Daniel's ruling.

Title 28 U.S.C. § 636 and this court's local rules authorize magistrate judges to decide certain pretrial matters. 28 U.S.C. § 636(b)(1); Local Civil Rule 72.3(b), EDNC. On appeal, the district court must "modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a); Local Civil Rule 72.4(a).

The court has carefully reviewed the record in this case and has determined that Judge Daniel's order denying entry of default against defendants is neither clearly erroneous nor contrary to law. The court, therefore, **OVERRULES** plaintiff's objections and **AFFIRMS** Judge Daniel's October 26, 2010, order.

Plaintiff shall have fourteen (14) days from the date of this order to respond to defendants' motion to dismiss, filed June 8, 2010. Plaintiff's motion to stay pending appeal [DE #46] is **DENIED** as moot.

This 14th day of December 2010.


MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
#31